

AMENDED IN SENATE AUGUST 22, 2014

AMENDED IN ASSEMBLY APRIL 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2501**

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**Introduced by Assembly Member Bonilla**

February 21, 2014

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An act to amend Section 192 of the Penal Code, relating to manslaughter.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2501, as amended, Bonilla. Voluntary manslaughter.

Existing law defines voluntary manslaughter as the unlawful killing of a human being without malice upon a sudden quarrel or heat of passion. The crime of voluntary manslaughter is punishable by imprisonment in the state prison for 3, 6, or 11 years.

This bill would state that for purposes of determining sudden quarrel or heat of passion, the provocation was not objectively reasonable if it resulted from the discovery of, knowledge about, or potential disclosure of the victim's—~~or defendant's~~ actual or perceived gender, gender identity, gender expression, or sexual orientation, including under circumstances in which the victim made an unwanted nonforcible romantic or sexual advance towards the defendant, or if the defendant and victim dated or had a romantic or sexual relationship. By changing the definition of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 192 of the Penal Code is amended to  
2 read:

3 192. Manslaughter is the unlawful killing of a human being  
4 without malice. It is of three kinds:

5 (a) Voluntary—upon a sudden quarrel or heat of passion.

6 (b) Involuntary—in the commission of an unlawful act, not  
7 amounting to a felony; or in the commission of a lawful act which  
8 might produce death, in an unlawful manner, or without due caution  
9 and circumspection. This subdivision shall not apply to acts  
10 committed in the driving of a vehicle.

11 (c) Vehicular—

12 (1) Except as provided in subdivision (a) of Section 191.5,  
13 driving a vehicle in the commission of an unlawful act, not  
14 amounting to a felony, and with gross negligence; or driving a  
15 vehicle in the commission of a lawful act which might produce  
16 death, in an unlawful manner, and with gross negligence.

17 (2) Driving a vehicle in the commission of an unlawful act, not  
18 amounting to a felony, but without gross negligence; or driving a  
19 vehicle in the commission of a lawful act which might produce  
20 death, in an unlawful manner, but without gross negligence.

21 (3) Driving a vehicle in connection with a violation of paragraph  
22 (3) of subdivision (a) of Section 550, where the vehicular collision  
23 or vehicular accident was knowingly caused for financial gain and  
24 proximately resulted in the death of any person. This paragraph  
25 does not prevent prosecution of a defendant for the crime of  
26 murder.

27 (d) This section shall not be construed as making any homicide  
28 in the driving of a vehicle punishable that is not a proximate result  
29 of the commission of an unlawful act, not amounting to a felony,  
30 or of the commission of a lawful act which might produce death,  
31 in an unlawful manner.

32 (e) “Gross negligence,” as used in this section, does not prohibit  
33 or preclude a charge of murder under Section 188 upon facts

1 exhibiting wantonness and a conscious disregard for life to support  
2 a finding of implied malice, or upon facts showing malice,  
3 consistent with the holding of the California Supreme Court in  
4 *People v. Watson* (1981) 30 Cal.3d 290.

5 (f) (1) For purposes of determining sudden quarrel or heat of  
6 passion—~~under~~ *pursuant to* subdivision (a), the provocation was  
7 not objectively reasonable if it resulted from the discovery of,  
8 knowledge about, or potential disclosure of the victim’s—~~or~~  
9 ~~defendant’s~~ actual or perceived gender, gender identity, gender  
10 expression, or sexual orientation, including under circumstances  
11 in which the victim made an unwanted nonforcible romantic or  
12 sexual advance towards the defendant, or if the defendant and  
13 victim dated or had a romantic or sexual relationship. Nothing in  
14 this section shall preclude the jury from considering all relevant  
15 facts to determine whether the defendant was in fact provoked for  
16 purposes of establishing subjective provocation.

17 (2) For purposes of this subdivision, “gender” includes a  
18 person’s gender identity and gender-related appearance and  
19 behavior regardless of whether that appearance or behavior is  
20 associated with the person’s gender as determined at birth.

21 SEC. 2. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.